Appx. F. IX-4

Previous References. 1943.44 (Prisons)

File No. 82-47

Serial Nos. 1 2

Later References.

Retain

PRESERVED

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Two

Part B for January 1943

SUBJECT

Petition of a detenu in the Mysore Jail for permission to attend the meetings of the Legislative Council

P.6472

8/1.22.12.42

To The Petitioner

Stating that it is not possible to comply with his request

H. C. Srivastava
Dt. 10/11/42

Prisons

General and Revenue Secretariat

Pris File No. 82 of 1943. [App. F. III-2

Serial No.	
1	From The I.G. of Prisons Letter No 670-229 dated 30th November 1942 forwarding for disposal, the petition of Mr. H.S. Rudrappa, a detenu in the annexe of the Mysore Jail, praying for permission to attend the meetings of the Legislative Council. Submitted. On previous occasions, the prayer of Municipal Council Members and District Board Members to attend the meetings of the respective Bodies during the period of their detention has been rejected. It is for orders if the present petition may also be rejected similarly. L 2/12/42

Mr. H. S. Rudrappa, a member of the Legislative Council has been ordered to be detained under rule 26 of the Defence of India Rules. He requests permission to attend the ensuing meetings of the Legislative Council from the 7th. In support of his request, the petitioner contends that under the constitution, a member of the Legislative Council who is not charged or convicted of an offence cannot be prevented from attending the meetings of the Council.

Under Section 20(1)(e) of the Government of Mysore Act, a person becomes disqualified for being a member

NOTE—Cont. Sheet.

WD 04155—GPB—55,000—23-10-41

Serial No.

of either chamber if he has been convicted of any offence and sentenced to imprisonment for not less than six months, unless a period of five years, or such less period as the Government may allow in any particular case, has elapsed since his release.

A person detained under the Defence of India Rules does not become disqualified from being a member of the Legislative Council by virtue of this provision, since he has not been convicted of any offence, but is only kept in custody as a measure of preventive detention in the interests of public safety.

Mr. Rudrappa does not thus become disqualified but retains his seat.

The point for consideration is whether the order of detention issued by the District Magistrate is overriden by any privilege enjoyed by Mr. Rudrappa as a member of the Legislative Council or by any express provision in the Constitution Act, viz. the Government of Mysore Act.

The privileges of the members of the Mysore Legislature are only two in number, viz. (1) freedom of speech and (2) freedom from arrest or detention in prison under a civil process during the continuance of any meeting of the Chamber. Analogies drawn from British constitutional history and parliamentary practice are of no value. For as pointed out by the Privy Council in one case, the privileges of the British Parliament are essentially peculiar to itself, being the product of long usage, and they are not carried over to any Legislature simply because it also performs functions

PRISONS 207

Petition ~~for~~ a detenu - L.C. Member to attend the Session

General and Revenue Secretariat | File No. | of 194 | [App. F. III-2

Serial No.

OFFICE OF THE LAW
DEC 5 1942
No. 4923

functions similar to the House of Commons (Keilly by Carson. 4 M.P.C. 63). The privileges of the member of the Legislative Council are only such as are conferre by the statute establishing the Council itself viz. t Government of Mysore Act.

Even if there were any rights or privileges as contended by the petitioner, they would, during the period of his detention, remain suspended. Section 3(6) of the Defence of India Act provides that any rule made under that Act, and any order made under such rule, shall have effect notwithstanding anything inconsistent therewith contained in any enactment. Under this provision, the order of detention passed by the District Magistrate would override the rights and privileges of the members, if any.

JNW 4/12

Chief Secy)

958.

SECY. LAW DEPT. GOVT OF MYSORE

Law Min.
Secy. Chief
Law Sec

JNW 4/12 5/12

The only privileges that can be claimed are those mentioned in § 22 of the Govt of Mysore Act - Hence I agree that the detenu cannot claim to be released on being released enabled to attend the Session

Chief 5-12-42 JNW 5/12

NOTE—Cont. Sheet.

WD 04155—GPB—55,000—23-10-41

PARSONS

5764

File No. of 194

General and Revenue Secretariat

Serial No.

U 923
L-M.

It is also the opinion recorded in ~~the Secretariat~~ the ~~Secretary~~ on the file after obtaining replies from the Central E. of S & L-A & the Provincial L-Cs & L-A's. That file is separately referred to as reference in the Companion Suggestion file

5/12

The gentleman's contention cannot be accepted. A suitable reply may be sent to him with a copy to the District Magistrate

HLL
6/12/42

Hon'ble Finance & Leader of the House

7/12

HLL
8.12.42

9/12

Draft reply to the pa submitted for appl

10/12/42

11/12

Chief Secy

11/12

Law M.
Hon'ble Law Sec

12.12.42

12/12

13/12

To day please
14/12

OFFICE OF THE MINISTER FOR REVENUE
17 DEC 1942
No. A674

SECY. LAW DEPT.
GOVT OF MYSORE

OFFICE OF THE MINISTER FOR LAW
DEC 12 1942
No. 5176

376 j

Continuation Sheet. Pri File No. / Current No. 82 of 43 Page.

Dated letter No P.4472 dated 22.12.1948

B
2/11/49

to M/s H.S. Rudrappa. (Sl. 2.)

C. F. No. 461

3767 842
P

GOVERNMENT OF MYSORE

Telegram / phone

OFFICE OF
the Inspector-General of Prisons
in Mysore,
Bangalore,

No. 670-229
Encls.

Date 30th November 1942.

Pris 82-43-1

To
The Secretary to the Government
of His Highness the Maharaja of Mysore,
Law Department, Bangalore.

Sir,

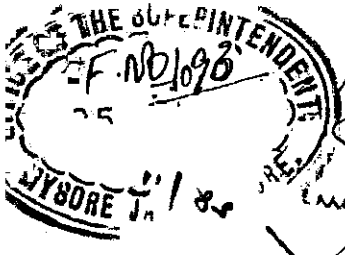
I have the honour to forward herewith the petition of Mr. H.S. Rudrappa, Member, Legislative Council now detained in the Annexe of the Mysore Jail requesting the Government to permit him to attend the meetingsm of the Legislative Council for disposal.

I have the honour to be,
Sir,
Your most obedient servant,

for Inspector-General of Prisons.
In Absent from Head Quarters

From
The Officer in charge of
Kamalakki Detention Camp
Mysore

To The Superintendent
Mysore Jail
Mysore



Dated
the 28th
1

Sir

I do submit herewith
the application of the H.S.
Ramdasha to visit Secunda
to the Govt of Mysore for
favour of doing the needful

Thanking you

M. Krishna Shetty
Officer in charge
Kamalakki
detention Camp
Mysore

No 2277/Genl
28-11-42.

Submitted to the Inspector General of prisons in regard. Biography for favour of perusal and orders

28/11

Superintendent
MYSORE JAIL
MYSORE.

meetings

I have been invited to attend the meeting. Moreover I learn that very important Bills will be brought before the Council for the Consideration of the House and it is but right that the Government should give an opportunity to each member of the House to take part in the proceedings of the House. I do not think that it is the intention of the Government also to push through the business by detaining the Hon'ble members of the House in jail and thus Convert the whole proceedings into a farce.

The Council meeting Commence from 2-12-42. Therefore I request you to place this matter before the Governmen and obtain the permission to ~~add~~ attend the Council Session. I expect an immediate reply.

Yours faithfully
H.S. Rudrappa

24.11.42
Karnataka detention camp
Mysore

No 2271
28-11-42

From.

H.S. Rudrappa, Member, Legislative Counc
detenue, Karuhatti detention Camp,
Mysore

To

The Secretary
to the Government of Mysore,
Bangalore.

Sir,

In pursuance of the intimation addressed to the jail by the Secretary, Legislative Council asking one to attend the Council and send subjects in advance I have sent the subjects in time.

I had addressed a letter to the Government on 12.11.42 seeking permission to attend the House Committee Meeting. I did not receive any reply though the meeting is over.

Therefore it raises a very important issue whether the Right that the Constitution of the Land vouchsafes to Hon'ble Members of the House can be so easily abrogated by the District Magistrate by detaining him in prison without a specific charge or conviction. It is needless for me to say that it is the Constitution of the land that governs the Country. As I read the Constitution of the land a member of the Council, who is not charged or convicted of an offence cannot be prevented from attending the Council or its Committee

Appendix F. G.—1]

SUBJECT.....

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Section Pris

File No. 82—43

Serial No. 2

Diary No. of letter replied to.....

No. P4472

General and Revenue Secretariat

( )

the *194*

To

Mr. H. S. Rudrappa,
Care of The Superintendent,
Mysore Jail.

Date of issue.... 22/12/42

Sir,

Signed by.... [signature]

With reference to your letter dated 24th November 1942 received through the Inspector General of Prisons, requesting permission to attend the sittings of the Legislative Council in December 1942, I am directed to state that the ~~only~~ privileges ~~that can be~~ claimed by you ~~are~~ ~~not those~~ mentioned in Section 22 of the Government of Mysore Act and that ~~therefore~~ it is not possible to ~~release you for the purpose of attending the sessions~~ comply with your request.

Yours faithfully,

[signature] 11/12

Law Secretary.

List of enclosures.....

P4474 22/12/42

Copied by.... No. P4473 dt. 22/12/42

Copy forwarded W.C. to the D.M. Mysore Dt. for information. [signature] 11/12

Copy forwarded W.C. to the I.G. of Prisons with reference to his letter No. 670-22 dated 30th November 1942. [signature] 11/12

Examined by.....

By Order,

For Law Secretary to Govt.

WD 04161—GPB—60,000—24-10-41